

*Examination*  
1823

22

**OBSERVATIONS**  
  
OF  
  
**GOVERNOR ROBERTSON**  
  
**ON A PAMPHLET,**  
  
PUBLISHED  
  
By order of the Senate,  
  
ENTITLED :  
  
**DOCUMENTS**  
  
RELATIVE TO THE  
  
**USURY BILL.**

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**New-Orleans:**

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May—1823.



1852



TO THE  
**PEOPLE OF LOUISIANA.**

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**Fellow Citizens,**

THE Senate has thought proper to issue a pamphlet *for your benefit*, so novel in its character, and so objectionable in its manner, that I feel myself compelled to notice it. Silent under anonymous attacks of newspaper scribblers, I cannot consent to treat with similar indifference, the censures of that respectable body. Hurried on by their feelings, I am induced to think, in their cooler moments, some of them at least, will acknowledge the injustice they have done me. Be it so or not, I fearlessly appeal to that tribunal, whose good opinion, having heretofore enjoyed, I would not willingly lose, but in whose award I am at all times prepared to acquiesce.

The charges made against me, in the report signed by the committee, and adopted by the senate, are as destitute of even a plausible foundation, as is the style in which they are conveyed, indefensible, and the report itself, as a state paper, singular and unprecedented. I apprehend the annals of our common country furnish as an example no such procedure: yet, it is certain that the Governors of the dif-



ferent states, in whom the power is vested, have frequently returned with their objections, laws which they deemed unconstitutional, or injurious to the rights and interests of the people. But this has never in any other instance, given rise to angry invective, and inflammatory addresses. Other senators, aware that the Chief Executive Magistrate is liable to impeachment before them as his judges, have refrained from premature denunciation. This is the course of courts of justice: it is the duty of all tribunals to avoid passion and prejudice, however obnoxious the offender. The effect of a sentence of condemnation after impeachment, in the language of the *Federalist*, would be but a perpetual ostracism from the esteem and confidence of my country, and the senate endeavour to produce this effect, without even the formality of a trial.

Wherefore is it that the senate, forgetful of their own dignity, as well as that of the state, have thought fit to drag me at all before the public? Why, above all, indulge in personal remark, and illiberal imputation? Not content with the superiority which the well known talents they have at command assures them, not satisfied with accusations against me, of having violated the spirit of the constitution, of inconsistency, of advocating dangerous theories—they have assailed the motives of my conduct—charged me with an attachment for usurers and extortioners, and with acting under the influence of the rich. As to usurers and extortioners, I know nothing of them, I



hold no communion with them, I never lent or borrowed a dollar on usury in my life, and, if I can help it, I never will: for I am not so extravagant or avaricious as to run the risk of ruining myself in endeavours to get money. (But should I find myself unexpectedly and unfortunately under the necessity of obtaining a loan on usurious interest, I would pay agreeably to my bond, not being enough of a casuist to absolve myself from any promise which I may deliberately make.) As to the rich, they are also a class to which I do not belong; my circumstances are narrow, my time has not been devoted to pecuniary pursuits; but with reference to others, their being rich or their being poor, is of no consequence to me. I give my respect and friendship to the intelligent, the virtuous, the industrious and patriotic. *& my government is devoted*

The constitution of the state provides, that "Every  
 " bill which shall have passed both Houses, shall be  
 " presented to the Governor. If he approve, he shall  
 " sign it, if not, he shall return it with his objections  
 " to the House in which it shall have originated, who  
 " shall enter the objections at large upon their jour-  
 " nal, and proceed to reconsider it." If this had been  
 done and nothing more; if my objections, after hav-  
 ing been spread upon their journal, had been suffered  
 there to remain; if in the discussion of them, certain  
 members had indulged themselves in passion, de-  
 clamation, and even abuse, for any "speech or  
 "debate in the House," they would not be question-  
 ed by me. Further, if in the pamphlet which they



have thought proper to publish, they had confined themselves to the subject, however ingeniously they might have supported the bill, or have met my objections, I certainly should not have deemed it necessary to have attempted a reply. But it must strike every one, who reads their report, that, it is not only made a vehicle of ungenerous imputations against me, but of unjustifiable attacks on my constitutional privileges, and the course I have taken in the administration of the department to which I belong. With these views, quotations are made from my former messages to the Legislature, and because I have admitted the superiority of that branch of government over the judiciary and executive, an opinion which I have always held, and which I still entertain, it is attempted to be proven that my refusal to sanction one of their acts, is a violation of that principle. How successfully they have established the proposition, I leave you, fellow-citizens, to decide. I will content myself with saying, that I should at least have been as much pleased, if they had given evidence of a recollection of some of the measures recommended to them, in which *you* were concerned, as in finding that they had taxed their memory with such points merely as suited their own purposes. Had that been the case, perhaps they might have thought it worth while to remonstrate with Congress on the injuries we suffer as individuals, and as a state, from the situation of the public lands—they might have amended our defective militia system—released the debtor from imprisonment,



or, at least, have separated him from vile criminals—the subject of the penitentiary might have received some notice, the views of preceding senates carried into effect, or the plan which had been adopted, abandoned, and the community saved the expense of an interest on 24,000 dollars, borrowed a year ago, and expended on a site for the contemplated building—a kind of usury highly mischievous, and more within their power than any they would vainly endeavour to prevent; [vainly endeavour to prevent, if there be truth in the opinions of the most respectable writers on political economy, or in what passes at present under our own observation in all societies with which we are acquainted.]

To enable you, fellow-citizens, more clearly to understand the charges which the senate have made against me, I proceed to detail concisely, other circumstances connected with the transactions to which they have called your attention. It is not my object, as it seems to be that of the senate, to enable you to judge who are, and who are not, your friends. Your opinions on this point, as well as of the republicanism and wisdom of your public servants, rest, I imagine, on surer and broader foundations than the views any of them may have taken of the act entitled “An act to prevent usury and for other purposes.” One decision, on an indifferent or doubtful question, goes but a very little way in building up or destroying a claim to your confidence. Be this as it may, the bill was presented to me on the afternoon of Saturday

He S. mind it is not doubtful,  
must be indifferent.

Is the question  
doubtful  
or not?



the 22d of March; and as the Legislature had agreed to adjourn on the 25th, I returned it to the House in which it originated on the 24th, with the hasty objections which the senate have incorporated into their pamphlet. My object in thus promptly acting, was to afford an opportunity to the Legislature to reconsider the bill, and to pass upon it in the manner pointed out by the constitution. I learnt, with as much surprise as regret, that the senate had taken umbrage at the objections I had made, and at what they considered the disrespectful language I had used. It was a relief to me, it assured me of what I felt to be true, that I had given no just cause for dissatisfaction, that the House of Representatives did not participate in the angry sentiments of the senate. Indeed I could have meant no offence to the Legislature: for although the members of the senate had been in a very bad humour with each other, the most friendly relations had continued between them and myself; and little did I expect, when at the moment of parting they felt a returning sense of the regard for each other which had been so unfortunately interrupted, that they would have deemed it necessary to offer me up a victim on the altar at which they sacrificed their mutual hostility—and for what? because I had dared to exercise a power vested in me by that constitution which you have formed, and they have sworn to obey. Their own report acknowledges this, but adds, that if the power of rejecting bills is exercised indiscriminately, it would be a violation of the spirit of that instrument. In this senti-



ment I cordially agree, and my practice has conformed to my theory, for I have sanctioned two hundred and twenty-seven bills, out of two hundred and thirty-one presented to me since my term commenced—nor have I withheld my signature from as many as either of my predecessors in office; yet have they laboured this point through whole pages of subtilty and argument, as if it were denied or doubted.

But I do not think that other of their principles and opinions are altogether so clear, or, whether for that reason or not, that they have so satisfactorily established them. Let us hear the committee—“The ground work of the objections of the Governor, seems to rest on principles first advanced about forty years ago by an ingenious and paradoxical writer.”]

[ The chronological inaccuracy of this remark, must strike every one at all acquainted with the writings of Locke, Montesquieu, Voltaire, &c. It is more than forty years, since Turgot, a statesman celebrated alike for his talents and his patriotism, declared that usury laws were injurious in their effects, that they were no where obeyed—that obedience to them would bring ruin on society.]

[ If Bentham is the writer alluded to in their Report, I have no hesitation to acknowledge that I think very highly of his work.] Since its publication, no one has been hardy enough to deny, that he had conclusively demonstrated the propositions which form its subject: that usury laws produce none of the

*Turgot is describing the state of things, previous to the horrible catastrophe of*



good which they pretend to have in view—that they create most obvious mischiefs by depriving persons of the loans they stand in need of—by the corruptive influence which they exercise upon the morals of the people, by the pains they take, and cannot but take, to give birth to treachery and ingratitude—by luring a man to break his engagement, and to crush the hand that has been reached out to help him.]

So too speaks the Edinburgh Review; and such is the language of reason and of truth; whilst the notions of Domat, and such as he, lie buried in the grave of antiquated prejudice, never again to be revived, above all in the enlightened age in which we live. [But admit that the principles on which my objections rest, originated about forty years ago; it was a glorious era, the brightest on which the sun has shone: prolific of great truths, it gave birth to the American constitution, to liberty itself.]

The Senate rest the foundation of *their* support of the bill, upon its having passed their house unanimously, and on their assertion, that “the practice of usury is reprobated by the laws of this state, and made punishable by every Christian country.”—Now, as to the fact of its having passed the Senate unanimously, I was not informed; but another bill, on the same subject, had also passed, so novel in its character, so pernicious in its tendency, that the House of Representatives had promptly rejected its most obnoxious features. A sufficient proof, that something more is necessary to command acquiescence in a



measure, than that it should have received the unanimous support of that body, however respectable it is admitted to be. “But the practice of usury is reprobated by the laws of this state.” Be it so, then there is no occasion to reprobate it any further; and it follows, both with respect to the *borrowers* and lenders, that it is a very disreputable practice, inasmuch as it is already prohibited by laws, which it is the duty of all good citizens to obey. The committee is mistaken in asserting that it is made punishable by the laws of every Christian country.—In all countries loans may be made to government on any interest agreed on by the parties: in at least one state of the Union, it is not punishable at all in fact. it was not so formerly in Holland, where money was more easily and cheaply obtained than in any other part of the world—but I agree with the author of a report on the plan of a penal code for this state, who, when urging the abolition of the punishment of death, replies to the argument of its being universally inflicted: “That the example of other states, although entitled to great respect, loses some of its force when we reflect on the slow progress of improvement, and that there are general errors, and unfortunately for mankind, but few general truths, established by practice, in government and legislation—that the long and general usage of any institution, gives us the means of examining its practical advantages or defects; but it ought to have no authority as a precedent, until it be proved, that the best laws are the most ancient,



“ and that institutions for the happiness of the people  
 “ are the most permanent, and most generally dif-  
 “ fused. But this unfortunately cannot be maintain-  
 “ ed with truth ; the melancholy reverse forces con-  
 “ viction on our minds. As to the danger to be ap-  
 “ prehended from innovation, I confess, I always listen  
 “ to it with some degree of suspicion. That men who  
 “ owe their rank, their privileges, their emoluments, to  
 “ abuses and impositions, originating in the darkness  
 “ of antiquity, and consecrated by time ; that such  
 “ men, should preach the danger of innovations, I  
 “ can well conceive, the wonder is that they can find  
 “ others, weak and credulous enough to believe  
 “ them. But in a country whose admirable system of  
 “ government is founded wholly on innovation, where  
 “ there is no antiquity, to create a false veneration  
 “ for abuses, and no apparent interest to perpetuate  
 “ them ; in such a country, this argument will have  
 “ little force against the strong reasons which assail  
 “ it.”

The committee assert that the Executives of other  
 states confine their objections to bills which may  
 have passed, to those of a “ constitutional nature ;”  
 to “ such as were founded on considerations which  
 had escaped the attention of the Legislature, or as  
 might arise out of information which the Executive  
 was supposed to possess in a greater degree than the  
 Representatives of the people.”

That the Governors of the states of the Union con-  
 fine their objections to those that are unconstitutional,



I deny—at this moment I have by accident, in a newspaper now before me, the objections of the governor of Pennsylvania to a bill of the Legislature of that state, for the following, among other reasons of a similar nature: “Because the preamble contains a fact in the accuracy of which he does not concur—because its provisions are evidently against the interests of the state.” As to the other legitimate grounds admitted by the senate, it might have been on one of them that I rejected their bill: but this is a point that it is usurpation in them to pretend to decide. I plead to their jurisdiction—the Constitution vests in the Executive the right, and imposes on him the duty, of sending back to them such bills as he cannot approve—with him too is necessarily vested the discretion of judging when it is proper to use this high power. This I shall always do without fear or affection; without being dictated to by any body of Magistracy within the state—honestly disposed to yield to the other departments of the government, more ably filled, I admit, than that to which I belong, the fullest liberty in the exercise of the power confided to them by the constitution, I am, at the same time, resolved firmly to resist every attempt at encroachment on mine.

What authority has the senate to lay down a chart for the governance of the Executive? to prescribe rules for his guidance? Rules too which they have for the first time thought of. At an early period of their session, I returned a bill which provided for farming out one of the objects of revenue. I re-



turned it, because I viewed it, as a mode of collecting a tax, in the highest degree oppressive to the people. I sent back another bill, because there was a similar law existing in the statute book. These were not objections such as the senate seem now to consider as legitimate, yet there was no complaint of my having transcended the powers given to the executive by the Constitution.

Umbrage seems to be taken at my irreverence in declaring what the report sarcastically denominates a great truth: that "mankind when left to themselves are better judges than their rulers of what best promotes their happiness and their interests." I really think they are: without disparagement to any. *[I believe there is more wisdom out of all governments than in them.]* I acknowledge the sentiment too—"That men of prudence will not borrow money in a manner injurious to their interests, men of honor will not lend as extortioners;" but how by connecting these two positions, they come to the conclusion that in my estimation, no laws whatever are necessary, I certainly am unable to discover. If they had inferred that I was of opinion that few laws are necessary, I should have pleaded guilty to the accusation, and should justify myself by referring to their practice, whatever be their theory; for they have not it must be confessed, at their last session, overburthened the state with legislative enactments. Yet these, and other opinions, which I have not taken up at random, which I have long held, as was well known before

*If he judges from his own capacity & wife  
the assertion is true.*



I received your suffrages for the place I fill, are denounced by the senate as pernicious and disorganizing—hesitating however as to the propriety of this unqualified reprobation, they say: “*If the people indeed are the best judges of their interest, then being nearer to the people, they are better judges than the Executive.*” Had they come to that conclusion, on the score of their superior intelligence and experience, I should not have disputed it.—Indeed I will not now deny it, although like the members of the senate, I am elected by the same public, and for the same length of time. ~~It~~ It is not that I am a better judge than they of the interests of the people, but that the people are better judges than both of us of what their interests require; and this is one of the reasons I have given, not for acting and thinking for them myself, as insinuated by the committee, but for preventing others from doing so, and for leaving them free, as heretofore, to make such bargains and contracts as they may conceive most conducive to their prosperity.

The report, after all the displeasure it manifests, makes us acquainted with laws, the existence of which, one might suppose, would have given the senate more than consolation for the loss of their favorite measure.—It states that “the Governor does not seem to have recollected that *the laws in force* in this state, forbid usury under penalties infinitely more severe, than those expressed in the rejected bill; that they impose heavy forfeitures, infamy and in-



“capacity to testify, and that by rejecting the bill he “has not left the honorable trade of usury unshackled.” Indeed! and so it turns out that *they* are the friends of that “honorable trade,” and that the rejected bill was got up to save usurers from the worse penalties of the laws now in force. This it is not my business to deny, all I have to say is, that I rejected it with no friendly views towards them; nor because I thought the money of the usurer as sacred as religion or the press. I have said that I considered money as much the property of those who possess it, as their houses, or their goods, or any other commodity whatever, and such is still my opinion.

The report states that *the Governor does not seem to recollect* the existence of the very severe laws against usury of which it speaks. It pays me a compliment, in supposing that I ever was acquainted with them, which I do not merit. The committee are deeper read in what they call laws than I am. I stand in the anomalous, the absurd situation, of being governed, like the greater part of yourselves, by laws written in languages which we do not understand. The jurisconsults now engaged in preparing a code, will, it is to be hoped, drag forth many more of them, now hidden in darkness, so that their benefit may be widely diffused, and not made, as at present, a monopoly by a few gentlemen of the bar, who, like the learned author of the report, may be so fortunate as to understand all the languages read and spoken in the courts of our state.



In their specific replies to my objections, the committee have been as disingenuous, as in their general views, but more concise; in this last respect, I will follow their example. “The particular provisions of “this bill which have met the reprobation of the Governor are :”

1. “That the rendering the security void, holds “out a temptation to violate private faith.” But this, they say, is a natural consequence of declaring a contract illegal: Be it so, the consequence however natural, I think is a very vicious one, and, precisely for that reason, justly to be reprobated.—But a contract, voluntarily entered into by those alone concerned, in its nature innocent, at least as to one of the parties, as admitted by the bill—becomes, according to the reasoning of the committee, when declared illegal, like a contract between smugglers, highwaymen and assassins—now this cannot be; it is contrary to the nature of truth, and any attempt to place contracts so dissimilar on the same footing, ought to be resisted.

2. “That the oath required by the third section, is “a reflection on the community, because it takes for “granted that every creditor is a usurer.” By what reasoning his Excellency came to this conclusion, the committee say they cannot divine—this is very possible, and I will tell them. The law provides that no creditor of an estate shall be paid unless he take an oath, that the debt due to him, did not originate in an usurious transaction: Wherefore is this necessary if



creditors are not suspected of usury? If the suspicion applies only to a *few*, then ought they in some manner to have been designated, and honorable men saved the insult of being required to swear that they are so.

The appointment of brokers being vested in the Governor alone, was not by him considered a sufficient reason to reject the bill, as insinuated by the committee, nor has he, since he pointed out the objection at the opening of the session, approved any bill containing such a provision—the charge too of his having sanctioned an act punishing sailors with imprisonment for violating their shipping articles, however distinctly and positively asserted, is a mistake—the law alluded to has no such clause—but even were it so, it would prove, what I am willing to confess, but for which I ought not to be reproved by the senate, that I have sanctioned laws from deference for the views of the legislature, which I would not have proposed, or for which, as a legislator, I would not have voted.

I am reproached for objecting to compelling a man to pay for having himself posted in a newspaper, and very gravely told, that this is done throughout the world in cases of bankruptcy. The senate, if they are so easily satisfied, may find precedent for much worse things than this—in some parts of the world fraudulent bankrupts are hanged.

In reply to my objections, that the effects of the law on trade and commerce would be in the highest



degree unfavorable and ruinous, the committee observe, that its effects would be beneficial by opening to society the banks, whose facilities are said to have been interrupted by usurers. As to the truth of this, I know nothing. I have, however, been informed by all the directors of the several banks, with whom I have spoken, citizens well esteemed for their honorable conduct through life, that whenever it is known or suspected, by the boards to which they severally belong, that notes are offered for discount for purposes of usury, they are invariably rejected; and we have a report of a joint committee of the Legislature, stating: "That they have attentively examined the  
 "books of the bank, and do not hesitate to say, that,  
 "they have not been able to discover in them, or in  
 "any of the proceedings of the institution any subject  
 "or matter to animadvert upon. The affairs and ma-  
 "nagement of the bank, appear to have been con-  
 "ducted in a liberal manner, as relates to the com-  
 "munity and with as much impartiality as respects  
 "individuals, as the state of trade and the means  
 "placed at her disposal, would authorize or justify;  
 "nor have they been able to discover, that in any  
 "instance, the directors of the Louisiana State Bank,  
 "or any of them, have either directly, or indirectly,  
 "had any concern with money brokers or shavers of  
 "this city, or of those of the towns where branches  
 "have been established, but on the contrary, they  
 "have had satisfactory evidence that the board of  
 "directors, have invariable been opposed to loan



“money, when the slightest suspicion could be attached of its being converted for that purpose.”

I do not stand alone in believing that the act, considered as an act to prevent usury merely, but which in fact intermeddles with, and deranges the most approved and ordinary modes of transacting the daily affairs of the community, would have produced most pernicious consequences. This is the opinion of four-fifths of the most intelligent people whom I have heard speak on the subject: those particularly concerned in money and exchange transactions, who purchase the produce of the country, send it to all quarters of the world, and bring back to us in exchange so many of the necessities, the conveniences, luxuries, and embellishments of life: that class of men, who next to the agriculturalists of the state, give to us the greater portion of whatever is valuable in character that we boast of at home and abroad—very unanimously reprobate the measure, not because it affected to prevent usury, which every body knows to be impossible, but for the reasons set forth by themselves, in their remonstrances to the Legislature and the executive. But the style of *these*, too, is said to be unmannerly, and I am blamed because one of them was addressed to me: yet I have seen much worse language in the public prints, attributed to those who seem so very sensitive on their own accounts—but I care not: the right to petition is secured to the citizen by the constitution, as well as the privilege of de-



bate to members of the Senate ; and for me, both parties may exercise them, as best suits their respective character.

The committee conclude with the following remarks : “ Finally, after a careful examination of the “ message referred to them, they can perceive in it “ nothing but an attempt to carry a most hazardous “ theory into effect, contrary to the will of the people, “ destructive of their best interests, and backed by “ the influence of those most interested in continuing “ the evil.”

Whatever be my theories, I believe them to be true. At all events, they are my own, they are neither put into my head, nor thrown upon paper for me, by others. That I have attempted, however, to carry any theory into effect, is a mistake. It is for opposing the hazardous theories which they attempted to carry into effect, that I am denounced. How far I may have acted contrary to the will and best interests of the people, I do not know. They have expressed no will upon the subject : senators have, but they are a portion of their representatives, not themselves ; and I, too, am a representative, but by no means gifted with omniscience, and very liable to err with respect to the opinions of others, at least until themselves have made them known.

As to the insinuation, that I rejected the bill through the influence of those interested in usury—as to the assertion, that I adopted in spirit, or referred with marked approbation to dishonorable imputations



against the legislative branches of the government—I repel them with scorn, as dishonorable imputations, undeserved by me, and unworthy of the body who has given them utterance.

I have now, fellow citizens, accomplished a task, an unpleasant one indeed, imposed upon me by the course pursued by the senate. I have done so to show, that in rejecting the bill presented to me by the Legislature, for the reasons already laid before you, I did nothing more than the constitution both authorizes and requires: that the style and manner of my objections were not adopted with the most distant idea of giving offence: that I spurn at the worse imputations cast upon me by that body; and, finally, that however powerful the senate may be, when viewed under the double aspect of accusers and judges, I cannot consent to be dictated to by them, in the exercise of rights, and the discharge of duties, confided to me by that instrument which I have sworn to support.

**THOMAS B. ROBERTSON.**

*New-Orleans, April 20, 1823.*



In this pamphlet, ~~it~~ is  
admitted to be an error, but  
it is asserted that no law  
can prevent it.

In this objection, it is stated  
that when things are left  
free, they take a life  
hopeless direction. "The result  
of ~~business~~ & ~~conduct~~ is  
just such a circumstance &  
these interests have made  
it."



